Hornsea Project Four

Net Zero Teesside Development Consent Order

Comments on the Applicant's Submissions at Deadline 7

Deadline: 8, Date: 20 September 2022

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1 Introduction

1.1 Orsted Hornsea Project Four Limited ("Hornsea Four") has reviewed the responses submitted by Net Zero Teesside Power Ltd and Net Zero North Sea Storage Ltd ("the Applicant") to Hornsea Four's Deadline 6 submission.

1.2 This submission sets out Hornsea Four's comments in response to those submissions.

1.3 Table 1 below sets out the ExA's question, the Applicant's response and Hornsea Four's comments in relation to that response.

2 Table 1: Orsted Hornsea Project Four Limited's comments on the Applicants responses to ExQ2.

ExQ2	Question to:	Question	Applicant's Response	Hornsea Four's Comments
DCO.2.14	Orsted The Crown Estate	At D5 [REP5-002] the Applicants proposed amendments to Article 49 which provide for Modification of the Interface Agreement. The EM [REP5-005] explains the effect and purpose of the provision. Orsted and The Crown Estate are asked to comment on the revisions to Article 49 including whether, in their view, the proposed changes would remove the need for Crown consent. Comments on the EM are also invited.	The Applicants' refer the Examining Authority ("ExA") to their response to question DCO2.15 at Deadline 6 [REP6-121] (including by reference to bp's submissions into Deadline 8 of the Hornsea Project Four DCO examination [Appendix DCO.2.14 in REP6-121]) which addresses the substance of Orsted's response to this question, including in relation to the potential need for The Crown Estate's ("TCE") consent to inclusion of the provision. Paragraphs 2.6 to 2.10 of bp's submission to Deadline 8 of the Hornsea Project Four examination ([REP6-121], electronic page [232]) address TCE's equivalent representations in that examination, and reflect the Applicants' position in relation to TCE's representations on Article 49 and Orsted's comments on the same. The Applicants are liaising with TCE in relation to the same.	Hornsea Four has considered the Applicant's response and maintains its position on this issue as set out in its Deadline 6 response [REP6-139] and its submission in response to question DCO2.16 at Deadline 7 [REP7-016]. Hornsea Four intends to further supplement its submissions in relation to Article 49 (and in particular to respond to the Jason Coppel KC opinion submitted by the Applicant at Deadline 6).
DCO.2.17	Orsted	In the Position Statement between the Applicants and Orsted Hornsea Project Four Limited [REP5-022] and its Written Summary of Oral Case at ISH3 [REP5-038] Orsted stated that it considers that the need for and appropriateness of a provision in the NZT DCO which interferes with the Interface Agreement should be fully examined in the NZT examination. i) Does Orsted consider that the NZT DCO could or should provide for interference with the Interface Agreement	The Applicants consider their previous submissions, including in response to this question address Orsted's comments in respect of parts (i) and (iii) to this question and do not have anything further to add. In respect of part (ii) and Orsted's suggestion that the inclusion of Article 49 represents a 'material change' to the DCO: Article 49 does not authorise a change to the Proposed Development subject to the DCO application. Its narrow purpose and effect is as explained in paragraphs 3.7.15 to 3.7.18 of the updated Explanatory Memorandum submitted at Deadline 5 [REP5-005], with the justification for its inclusion previously addressed, as noted in commenting against Orsted's submissions to the other components to this question.	Hornsea Four has considered the Applicant's response and maintains its position on these issues as set out in its Deadline 6 response [REP6-139].

		given the lack of direct physical conflict between the development proposed in the NZT DCO and HP4? ii) Explain why it is considered that the introduction of a provision to disapply or otherwise address matters in the Interface Agreement would be a material change to the NZT DCO. iii) Noting Orsted's comment at 2.1.8 of the Position Statement, Orsted is asked to comment on the re-drafting of Article 49.	It is perfectly common for new drafting to be proposed in draft DCOs during their examination, and Article 49 was first included in Version 4 of the DCO at Deadline 2 (before being further updated in Version 6 at Deadline 5), providing Orsted with ample opportunity to comment in response (which they have clearly utilised), allowing the ExA to have regard to such submissions in considering the matter in this examination. For completeness, and having regard to PINS Advice Note 16 and paragraph 2.1 in particular, the 'change' is neither substantial nor does noes it result in the Proposed Development being in substance different from that which was originally applied for. It also does not generate new or different likely significant effects, nor involve any extension to the Order land under the DCO.	
DCO.2.18	Applicants Orsted	In the Position Statement between the Applicants and Orsted Hornsea Project Four Limited [REP5-022] Orsted confirmed (paragraph 3.1.7) that it had submitted a draft set of protective provisions for inclusion in the NZT DCO (Appendix 1 [REP2-089]). (At D3 the Applicants indicated (paragraph 13.3.3 [REP3-012]) that they did not propose to comment on the detail of Orsted's protective provisions because there was no	In response to part (ii) of this question, Orsted append an opinion from Richard Harwood QC which makes various submissions in relation to how and why the NZT DCO application's ES must assess the impacts of the wider CCUS project on Hornsea Project Four. The Applicants will provide a full response to this aspect of the Opinion at Deadline 8; however, in the interim, refers the ExA to the Applicants' response to question COM2.2 at Deadline 6, which is relevant to these submissions and which signposts the Applicants' submitted assessment of the impacts of the offshore elements of the NEP Project on Hornsea Project Four (see Annex 1 to Applicants response to Orsted HP4 D3 Submission July 2022 [REP4-030]).	Hornsea Four has considered the Applicant's response and maintains its position on these issues as set out in its Deadline 6 response [REP6-139] and its submission in response to question DCO2.16 at Deadline 7 [REP7-016]. Hornsea Project Four has, in its previous submissions, explained why it would be inappropriate for either the Hornsea Four Offshore Wind

		need/ justification for them.) The Applicants' position (paragraph 3.1.2 [REP5-022]) is stated to be that they are not aware of any explanation having been advanced by Orsted as to the need for additional protective provisions in the NZT DCO in the scenario where Orsted's submissions as to protective provisions on the HP4 DCO have been accepted by the SoS. i) The Applicants are asked to comment on Orsted's proposed protective provisions [REP2-089]. ii) Orsted is asked to clarify why it requires protective provisions in the NZT DCO for the benefit and protection of HP4 when the NZT DCO does not extend to the Endurance Store? iii) Should measures to safeguard the delivery of the HP4 be managed though the approvals process for the offshore elements of the NZT project rather than the NZT DCO?	To address the more narrow submissions made in relation to the need for protective provisions to be included in the DCO for the benefit of Hornsea Project Four, which Orsted contend in the response to part (ii) of this question are required because broadly – i) the Hornsea Project Four DCO has not yet been made; ii) it is possible that the making of the Hornsea Project Four DCO will be after September 2022 24 the NZT DCO (notwithstanding their current respective timelines); iii) the provisions in the Hornsea Project Four DCO do not, in any case, preclude the carbon storage licensee from carrying out works in the 'overlap zone'; and iv) it is not appropriate to leave the issue to the consenting regime for the offshore elements of the Endurance Store as those applications have not been made and so there is no proposal to include any such additional protection. The Applicants addressed the substance of these submissions at ISH3, both orally and in the subsequent written summary of its submissions at the same [REP5-025, electronic page 21 to 23]. The Applicants do not propose to repeat the same submissions, but to summarise briefly in response to those numbered summary points above: i) The examination period for Hornsea Project Four closed on 22 August 2022, meaning it is approximately 3 months ahead of the NZT DCO in the consenting process and falls to be determined by the same SoS. There is no known reason why the determination of Hornsea Project Four would be delayed until after the NZT DCO, meaning that the SoS would almost certainly be determining the NZT DCO with the full context of the Hornsea Project Four DCO decision (and the	Farm DCO or the Net Zero Teeside DCO to interfere with the agreed commercial position in respect of co-existence, interface and compensation (as set out in the tri-partite interface agreement). It does not follow, however, that retention of that interface agreement on its own provides the complete solution to interactions between the projects. We also consider that the Applicant's summary of how the interface agreement would operate and the protection it offers is an oversimplification. The protective provisions proposed by Hornsea Project Four in the Hornsea Four Offshore Wind Farm DCO for the benefit of the carbon storage operator and in the Net Zero Teeside DCO for the benefit of Hornsea Project Four seek to supplement but are consistent with the interface agreement. The interface agreement itself envisages some further detailed agreements between the parties in respect of interfaces (consistent with the principles established by the interface agreement) and does not preclude the

		iv)	Has Orsted sought to discuss issues and propose protections with the advisors to the decision maker in respect of the storage permit process and the related EIA process?		Applicants have explained previously how that will impact on consideration of the interface issue in this DCO [REP5-025, electronic page 22]). ii) The Applicants have also made submissions to address the alternative scenario where there is a material delay to the Hornsea Project Four DCO such that the NZT DCO fell to be determined first [REP2-060, electronic page 13, paragraphs 6.2.13 to 6.2.17]. iii) In the scenario where the Hornsea Project Four DCO has been made with Orsted's protective provisions included, it follows that bp's provisions/submissions will have been rejected and so the interface agreement remains in full force and effect. In such circumstances, the Carbon Entity (being the carbon storage licensee) would be unable to carry out its activities in the overlap zone unless and until an agreement has been reached with the Wind Entity (being Orsted) as to appropriate mitigation/compensation. Without prejudice to the submissions made by bp into the Hornsea Project Four examination regarding the interface agreement (and repeated, where relevant, in this examination regarding Article 49), in the scenario described above, the interface agreement would clearly provide the 'supplementary' protection Orsted argue is necessary. It is also noted that Orsted did not raise this potential deliverability issue/concern in the Hornsea Project Four examination. iv) The NZT DCO does not authorise any works in the overlap zone. It does not follow that because the applications for the offshore consents which will authorise the works in the overlap zone have not been made, that protections must thus be secured in the NZT DCO. Those applications	respective consenting processes from finding additional protections and requirements are necessary to achieve appropriate co-existence and interface. As set out in previous submissions the protective provisions for the benefit of Hornsea Project Four are necessary and appropriate to ensure that the Secretary of State can intervene if the CCUS project is proposed to come forward in a way which unduly and unnecessarily constrains the deployment of renewable energy from Hornsea Project Four.

				must necessarily follow to enable such works to occur, and it is at this point which Orsted can make the necessary submissions, including to the SoS, as to any protections/conditions they consider appropriate and necessary to include in the offshore consents at that point time. Orsted also submit that the resolution of the interface issue is best achieved through the thorough and transparent DCO process. This is what will be achieved through the determination of the Hornsea Project Four DCO application and, per the Applicants' previous submissions [including REP5-025, electronic pages 12 and 22], there is no benefit in duplicating the substance of the same in this examination.	